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Congress of the United States
House of Representatives
Washington, DC 20515

February 26, 2020

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The Honorable Mark Esper
Secretary
Department of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Esper:

I write today to inform you that your agency is the most recent recipient of my Golden Fleece Award. I am awarding the Golden Fleece to the U.S. Department of Defense (DoD) for awarding more than \$827 million in federal contracts intended for service-disabled veteran-owned small businesses (SDVOSB) to contractors that did not qualify as a SDVOSB.

Executive Order 13360 requires the heads of federal agencies to provide set-aside opportunities for federal contracting for SDVOSB's. SDVOSB is defined in the Code of Federal Regulations (CFR) as at least 51-percent unconditionally and directly owned by one or more service-disabled veterans.¹ DoD's Office of Small Business Programs (OSBP) is responsible for developing and implementing this policy at DoD and providing proper oversight.

According to a February 18, 2020 DoD Inspector General (IG) report, "DoD contracting personnel awarded 27 contracts, valued at \$827.8 million, to 16 contractors that did not have a service-disabled veteran as the owner or highest ranking officer in the company or whose publicly available information and contracting documentation did not support that the contractor met the requirements for SDVOSB status."² The DoD IG goes on to state that the DoD does not have adequate controls to ensure awards to eligible contractors because "the DoD relies solely on the self-certification process for contractors to identify their SDVOSB status with no additional controls in place to verify that contractors comply with the CFR requirements prior to awarding SDVOSB contracts."³

Also, the Department of Veterans Affairs (VA) "is required to maintain a database of small businesses owned and controlled by veterans and the veteran owners of such businesses,"⁴ and this database is publicly available. This means that DoD personnel have a publicly available database at the VA to cross reference SDVOSB contract applications and failed to do so. However, what is most astonishing is that one contractor received a \$49 million SDVOSB contract from DoD *after* the Small Business Administration determined the contractor was no longer eligible as a small business.

¹ 13 CFR sec. 125.9 (2011)

² U.S. Department of Defense Office of Inspector General. "Audit of DoD Service-Disabled Veteran-Owned Small Business Contract Awards." Report No. DODIG-2020-063. February 18, 2020. 6.

³ Ibid, 7.

⁴ Ibid, 4.

DoD was also audited by the DoD IG in 2012 on this same issue and was told in 2012 “that controls over the DoD SDVOSB set-aside program were not adequate to ensure that only eligible SDVOSB’s obtained set-aside and sole-source contracts.”⁵ Back to back audit findings is a problem.

It is unacceptable for the DoD to award contracts intended for our SDVOSB’s to unqualified contractors. Not only is this a waste of taxpayer funds, it has an unknown economic impact on actual qualified SDVOSB’s that may have lost these contract bids to a non-qualified entity. Further, it is apparent that DoD has not implemented the needed controls recommended by the DoD IG back in 2012 and has continued to wrongfully award hundreds of millions of dollars in federal contracts intended for SDVOSB’s.

When our nation is more than \$23 trillion in debt, our federal agencies must be good stewards of taxpayers’ dollars. Further, our federal agencies must adequately follow Executive Orders and the CFR to ensure the procedures and oversight of federal contracting goals intended for SDVOSB’s are being properly followed.

I request that you keep my office up to date on the progress of the OSBP’s implementation of the recommendations made by the DoD IG.

Should you require any additional authority from Congress to address these concerns, I urge you to notify us as soon as possible. I thank you for your consideration and look forward to working with you to address this important issue.

Sincerely,



French Hill
Member of Congress

⁵ Ibid, 5.